

ESTTA Tracking number: **ESTTA153695**

Filing date: **07/30/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	IWT.TV Inc.		
Entity	Non-profit company	Citizenship	Canada
Address	720 Bathurst St. Suite 301 Toronto, ON M5S 2R4 CANADA		

Name	Independent World Television Inc.		
Entity	Non-profit corporation	Citizenship	New York
Address	143 W. 4th St. New York, NY 10012 UNITED STATES		

Attorney information	Jennifer D. Collins Faegre & Benson LLP 1700 Lincoln Street 3200 Wells Fargo Center Denver, CO 80203 UNITED STATES trademarkdnvr@faegre.com, jcollins@faegre.com, nhanlon-leh@faegre.com, jsmith@faegre.com Phone:303-607-3500		
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Applicant Information

Application No	78817982	Publication date	07/10/2007
Opposition Filing Date	07/30/2007	Opposition Period Ends	08/09/2007
Applicant	Russell Baker 204 East 11th Street New York, NY 10003 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2006/02/06 First Use In Commerce: 2006/02/06
All goods and services in the class are opposed, namely: News reporting services, namely, services for the production and distribution of investigative journalism intended for adults

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/	NONE	Application Date	NONE
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Registration No.			
Registration Date	NONE		
Word Mark	REAL NEWS, REAL NEWS - BY REAL PEOPLE, REAL NEWS NETWORK, REALNEWSNETWORK.COM, RNN		
Goods/Services	news reporting services, citizen journalism and investigative journalism		

Related Proceedings	91178107, 91178106
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Attachments	Notice of Opposition REALNEWS.pdf (5 pages)(173959 bytes)
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Signature	/Jennifer D. Collins/
Name	Jennifer D. Collins
Date	07/30/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IWT.TV Inc. and

Opposition No. _____

Independent World Television Inc.,

Mark: **REALNEWS**

Opposers,

Serial No.: 78/817,982

v.

Filing Date: February 17, 2006

Russell Baker,

Publication Date: July 10, 2007

Applicant.

NOTICE OF OPPOSITION

IWT.TV Inc., a Canadian non-profit company having its principal place of business at 720 Bathurst St., Suite 301, Toronto, Ontario M5S 2R4, and Independent World Television Inc., a New York non-profit corporation having its principal place of business at 143 W. 4th St., New York, NY 10012 (“Opposers”), believe that they will be damaged by the registration of the mark **REALNEWS**, as depicted in Application Serial No. 78/817,982 (“Applicant’s Mark”), and hereby oppose the registration of said application under the provisions of 15 U.S.C. § 1063.

As grounds for their opposition to the registration of Applicant’s Mark, Opposers allege:

1. Applicant Russell Baker (“Applicant”) applied for Applicant’s Mark on February 17, 2006, and said application was assigned serial number 78/817,982.
2. Application serial number 78/817,982 seeks the registration of Applicant’s Mark, depicted as follows:

REALNEWS

3. Application serial number 78/817,982 seeks the registration of Applicant's Mark in connection with the following goods:

"news reporting services, namely, services for the production and distribution of investigative journalism intended for adults," in International Class 41.

4. Applicant's Mark was published for Opposition in the *Official Gazette* on July 10, 2007.

5. Therefore, this Notice of Opposition is timely filed.

6. Opposers seek relief based on two alternative grounds: (1) Opposer IWT.TV Inc. is the owner and Opposer Independent World Television Inc. is the U.S. licensee of marks incorporating the phrase "REAL NEWS". Opposers are the senior users of marks incorporating the phrase "REAL NEWS," and Applicant's use or intended use of Applicant's Mark is likely to cause confusion; or, in the alternative, (2) the phrase "REAL NEWS" is merely descriptive for news reporting services, and, therefore, Applicant should not be permitted to exercise exclusive rights.

COUNT I:

LIKELIHOOD OF CONFUSION

7. Opposer IWT.TV Inc. is the owner of valid and enforceable common law rights in the following family of trademarks ("Family of Marks") containing the "REAL NEWS" designation:

Mark	Goods / Services
REAL NEWS	news reporting services, citizen journalism and investigative journalism
REAL NEWS – BY REAL PEOPLE	news reporting services, citizen journalism and investigative journalism
REAL NEWS NETWORK	news reporting services,

	citizen journalism and investigative journalism
REALNEWSNETWORK.COM	news reporting services, citizen journalism and investigative journalism
RNN	news reporting services, citizen journalism and investigative journalism

Opposer Independent World Television Inc. is an affiliated entity of IWT.TV Inc. and is the U.S. licensee of the Family of Marks.

8. Since November 2002, the Family of Marks has been used in interstate commerce in conjunction with promoting news reporting services, citizen journalism and investigative journalism.

9. Opposers have promoted the Family of Marks through electronic media, including its website *www.realnewsnetwork.com*. Through such promotion and use by Opposers and their predecessor-in-interest, the Family of Marks is widely recognized as an indicator of source for Opposers' products and services, and represents valuable and substantial goodwill of Opposers in their business.

10. Opposers, through their predecessor-in-interest, have been using the Family of Marks since at least November 2002. As a result, Opposers, through their predecessor-in-interest, have provided news reporting services well prior to the application date of Applicant's Mark, and well before any use or application of Applicant's mark for any news reporting services. Thus, Opposers are the senior users of the Family of Marks.

11. Opposers are not connected in any way with Applicant's use of Applicant's Mark.

12. The Family of Marks is distinctive in connection with Opposers' services.

13. Applicant's use of or intended use of Applicant's Mark is without Opposers' consent or permission.

14. Applicant's Mark is confusingly similar to the Family of Marks.

15. The services identified in application serial number 78/817,982 are related to the services offered by Opposers under the Family of Marks. Such related services are offered and will be offered in the same channels of trade.

16. Because of the similarity of Applicant's Mark to the Family of Marks, and the overlapping and related services offered in connection with Applicant's Mark through similar channels of trade, persons familiar with Opposers and their goods and services are likely to be misled into believing that Applicant's services, if offered under Applicant's Mark, are sponsored by or otherwise associated with Opposers in some way, thereby damaging Opposers.

17. Applicant's use or intended use of Applicant's Mark in connection with Applicant's services is likely to cause confusion, mistake, or deception as to the source, origin, or sponsorship or approval of Applicant's services, in that consumers are likely to believe that Applicant's services are Opposers' services, or are in some way legitimately connected with, licensed, or approved by Opposers.

18. Opposers believe that the registration of Applicant's Mark on the Principal Register in connection with the opposed services would be inconsistent with Opposers' rights under the common law and the Trademark Act, and Opposers believe that such registration would be damaging to Opposers.

COUNT II (IN THE ALTERNATIVE):

APPLICANT'S MARK IS MERELY DESCRIPTIVE

19. Opposers believe that Applicant's Mark is merely descriptive in that it merely describes the information services being provided by Applicant, namely, news reporting services.

20. Applicant's Mark is not distinctive in connection with the services being provided by Applicant, namely, news reporting services, and lacks secondary meaning.

21. Applicant does not have any exclusive right to use Applicant's Mark since the phrase "REAL NEWS" is used concurrently by many parties, including Opposers.

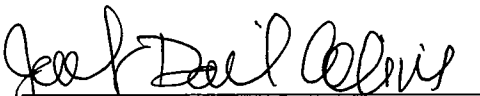
22. Opposers believe that the registration of Applicant's Mark on the Principal Register should be refused under the Trademark Act because Applicant's Mark does not have the characteristics necessary to render it a protectable mark.

WHEREFORE, Opposers believe that they would be damaged by registration of Applicant's Mark in connection with the opposed services and respectfully pray that Application serial number 78/817,982 be rejected, that no registration be issued thereon, and that this opposition be sustained in favor of Opposers.

The required opposition fee of \$600.00 accompanies this Notice. If the filing fee is deficient or excessive in any way, the Commissioner is granted authority to credit or debit Deposit Account Number 06-0029.

Dated: July 30, 2007

Respectfully submitted,

By: 

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Attorneys for Opposers
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